

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HUMBOLDT COUNTY OFFICE OF  
EDUCATION, FORTUNA UNION HIGH  
SCHOOL DISTRICT, and LOLETA  
UNION ELEMENTARY SCHOOL  
DISTRICT.

OAH Case No. 2015091024

ORDER GRANTING MOTION TO  
AMEND COMPLAINT, REMOVING  
EUREKA CITY SCHOOLS AS A  
PARTY, AND ADDING LOLETA  
UNION ELEMENTARY SCHOOL  
DISTRICT AS A PARTY

On September 21, 2015, Student filed a due process hearing request (complaint) with the Office of Administrative Hearings naming Ferndale Unified School District, Humboldt County Office of Education, Fortuna Union High School District, and Eureka City Schools. On September 28, 2015, Eureka filed a motion asking to be dismissed from the case. On September 30, 2015, Ferndale also filed a motion asking to be dismissed from the case. On October 1, 2015, Student filed an opposition to Eureka's motion to dismiss, and on October 5, 2015, he also filed an opposition to the motion to dismiss Ferndale. However, he withdrew his opposition to the dismissal of Ferndale on October 6, 2015, and OAH granted the motion to dismiss Ferndale on October 7, 2015. In regards to Eureka's motion to be dismissed, on October 7, 2015, OAH ordered Eureka to file a supplemental briefing no later than October 13, 2015. Student was to respond no later than October 16, 2015.

On October 12, 2015, Student sent OAH a document entitled "Amended Special Education Due Process Complaint Notice," and it is inferred that this is intended to be a motion to amend his complaint. Named as parties in the proposed amended complaint are Humboldt County Office of Education, Fortuna Union High School District, and Loleta Union Elementary School District. Eureka is not named. None of the named Districts in both the original and amended complaints have filed a response to the motion to amend.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The motion to amend is timely and is granted. The amended complaint supersedes the original complaint and no longer names Eureka City School District as party. As such, a ruling on Eureka's earlier motion to be dismissed is no longer required, as Student has in effect withdrawn all previous claims made against Eureka. Eureka shall be removed from the caption and service list of this case, after service of this order. Loleta Union Elementary School District is added as a party. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: October 20, 2015

/s/

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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings